IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :
THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 30181 of 2006(R)

PETITIONER:

JAYA JOSE,
A.W.D. NO.13, CHALAKUDY, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.T.P.KELU NAMBIAR (SR.)
SRI.T.R.RAJEEV
SRI.T.S.RADHAKRISHNA PILLAI

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED BY**
   SECRETARY TO THE GOVERNMENT,
   FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS
   DEPARTMENT, THIRUVANANTHAPURAM.

2. **THE COMMISSIONER OF CIVIL SUPPLIES,**
   COMMISSIONERATE OF CIVIL SUPPLIES,
   THIRUVANANTHAPURAM.

3. **THE DISTRICT COLLECTOR,**
   THRISSUR.

4. **THE DISTRICT SUPPLY OFFICER,**
   THRISSUR.

5. **SHRI. A.K.PAUL,**
   ALAPPATT HOUSE, NEAR GOVT. HOSPITAL,
   CHALAKUDY, THRISSUR DISTRICT.

BY ADV. SRI.RENJITH THAMPAN
SMT.P.A.ANITHA
SMT.P.R.REENA
GOVERNMENT PLEADER SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C NO.30181/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE. NOTIFICATION DT.29.7.03.

EXT.P2:- COPY OF THE PROCEEDINGS DT.20.11.03 OF 3RD RESPONDENT.

EXT.P3:- COPY OF THE PROCEEDINGS DT.27.4.05 OF 2ND RESPONDENT.

EXT.P4:- COPY OF THE PETITION FILED BY PETITIONER BEFORE THE HONOURABLE MINISTER FOR FOOD DT.11.8.O6.

EXT.P5:- COPY OF THE ORDER OF 1ST RESPONDENT DT. 14.11.06.

RESPONDENTS EXHIBITS

EXT.R5(a):- COPY OF THE REPRESENTATION FILED BY THE ALL KERALA RETAIL RATION DEALERS ASSN., THRISSUR TALUK COMMITTEE DT.11.5.04.

EXT..R5(b):- COPY OF THE GOVERNMENT NOTIFICATION DT.29.7.03.

EXT.R5(c):- COPY OF THE APPEAL MEMORANDUM FILED BEFORE THE GOVERNMENT.

EXT.PR5(d):- COPY OF THE REVISION PETITION FILED BEFORE THE GOVERNMENT.

/TRUE COPY/

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THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.30181 OF 2006 (R)

Dated this the 26th day of February, 2007

JUDGMENT

The District Collector, Thrissur, invited applications for appointment of an authorised wholesale distributor of ration articles. The choice fell in favour of the petitioner. The contesting 5th respondent challenged that decision before the Civil Supplies Commissioner and later before the Government, as per Exhibit R5(d). Ultimately, the Government, as per Exhibit P5 Government Order, held that the 5th respondent is entitled to have the allotment in his favour since he provided a solvency certificate for rupees seven lakhs and because he was a physically handicapped person.

2. The required solvency for the purpose of the competition was for rupees six lakhs, which was provided by the petitioner as well as the 5th respondent. Without a prescription being provided in that regard, it is inappropriate that a comparison of

solvency amounts has been made to choose the person entitled to be appointed as the dealer.

3. Under clause 45(2)(a), a physically handicapped person is entitled to be considered with preference, while considering the question of allotment of retail depots. That rule does not apply to wholesale depots. There is also no rule pointed out before me which enable the Government to give a preference for physically handicapped persons, while choosing a wholesale dealer.

4. For the foregoing reasons, the observation in Exhibit P5 decision in favour of the 5th respondent goes.

5. Learned counsel for the 5th respondent however submits that if one goes through the contentions raised in Exhibit R5(d) revision filed by him, it can be easily seen that the Government did not advert to consider all the rival contentions of the parties.

6. Under the aforesaid circumstances, Exhibit P5 is quashed and the matter is relegated for reconsideration by the Government, in accordance with the provisions of the rationing order. Let the needful be done after hearing the parties and final decision shall be taken within an outer limit of four months from the date of hearing of the parties.

THOTTATHIL B.RADHAKRISHNAN
Judge

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